IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20279 of 2004

Between:

L. Siva Reddy, S/o Rama Subba Reddy,
Balasingayapalli Village, Chennur Mandal, Kadapa District.

..... PETITIONER

AND

1 The District Level Committee, (Sand Auctions) rep. by its Chairman, Mines and Minerals, Kadapa.
2 The District Panchayat Officer, Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or orders more particularly one in the nature of Writ of Mandamus, holding that the action of the 2nd respondent in issuing the notice in Rc.No. 630/2003/A2, dated 18-10-2004 as illegal, arbitrary unreasonable and without jurisdiction.

Counsel for the Petitioner:MR.N.PARAMESWARA REDDY

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORDER:

Questioning the notice, dated 18-10-2004, issued by the 2nd respondent, calling upon the petitioner to pay the seigniorage charges, the present writ petition is filed.

By the impugned notice, dated 18-10-2004, the petitioner was informed that he has illegally transported the sand from Chennamukkapalle sand quarry, and that as per the inspection report submitted by the Officer, Regional Vigilance Enforcement, Tirupathi, the quantity of sand lifted by him was 30,600 cubic meters, for which the seigniorage charges have to be paid at Rs.9,18,000/- and the penalty at 10 times to Rs.9,18,000/- (i.e. 9,18,000 X 10). Accordingly, he was called upon to pay the said amount within 15 days from the date of receipt of the notice.

Admittedly, the respondents have not issued any prior notice to the petitioner, nor given any opportunity to submit his explanation, but straight away called upon him to pay the seigniorage charges as per the assessment.

If that be the case, the impugned notice can be treated as only a show cause notice and the petitioner is entitled to file his explanation to the same, within a period of three weeks from the date of receipt of a copy of this order. On filing such explanation, the respondents have to determine the exact quantity of the sand lifted and transported unauthorisedly, if any, by providing opportunity to the petitioner. Till such determination is made, no coercive steps shall be taken by the respondents pursuant to the impugned notice.

The writ petition is accordingly disposed of. No order as to costs.

04-11-2004

GJ

To

1 The Chairman, District Level Committee, (Sand Auctions), Mines and Minerals, Kadapa.
2 The District Panchayat Officer, Kadapa, Kadapa District.

3 Two C.Cs. to the Government Pleader for Panchayat Raj, High Court of A.P., Hyderabad(OUT)

4 Two C.D. copies.